

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**MICHAEL SMITH, WAYNE BOYD, and §
DEDRICK WILEY, on Behalf of Themselves §
and all Others Similarly Situated, §**

Plaintiffs,

V.

P & B INTERMODAL SERVICES, LLC,

Defendant.

CIVIL ACTION NO. 3:20-cv-3618-B

JURY TRIAL DEMANDED

COLLECTIVE ACTION

ORDER

Before the Court is the Agreed Motion Regarding Fair Labor Standards Act (“FLSA”) Certification and Notice to Putative Collective Action Members (Doc. 34) filed by Plaintiffs Michael Smith, Wayne Boyd, and Dedrick Wiley (collectively “Plaintiffs”). After considering the pleadings, the motion, and all legally competent evidence, the Court **GRANTS** the Motion (Doc. 34).

The Court **ORDERS** as follows:

1. The Court certifies a collective action under the federal Fair Labor Standards Act, 29 U.S.C. § 216, as follows:

All current and/or former CCT¹ Technician employees of Defendant P & B Intermodal Services, LLC (“Defendant”) who work and/or worked for Defendant in Texas who are and/or were paid on an hourly basis who also receive and/or received pay labeled as “incentives” in their earnings statements that is not and/or was not included in their respective FLSA regular rates of pay for corresponding workweeks in which they worked more than forty (40) hours which allegedly results and/or resulted in an underpayment of the FLSA overtime wages they are and/or were owed (hereafter the “Putative Collective Action Members”). The Putative Collective Action Members covered by this Order are those employed

¹ “CCT” stands for “chassis, container, and trailer.”

by Defendant at any time during the time period of December 17, 2017 to the date of this Order.

2. The Court approves the Notice, Consent to Join form, and Client Data Sheet (collectively the “Notice Packet”) provided in the Appendix to the Motion.

3. No later than fourteen (14) calendar days after the date of this Order, Defendant shall disclose the full names, last known addresses, last known e-mail addresses, and dates of employment of the Putative Collective Action Members (the “Contact Information”) to Plaintiffs’ counsel. The Contact Information shall be produced in a usable electronic format.

4. No later than twenty-one (21) calendar days from Plaintiffs’ counsel’s receipt of the Contact Information from Defendant, Plaintiffs’ counsel shall mail, via First Class U.S. Mail and, where possible, also e-mail the Notice Packet to each of the Putative Collective Action Members identified by Defendant as required by this Order.

5. The Court orders that the envelope, in which the aforementioned Notice Packet shall be mailed, state on the outside, in regular or bold typeface: **“Notice of Unpaid Overtime Lawsuit – Deadline to Join.”** Plaintiffs’ counsel may also e-mail the Notice Packets to the Putative Collective Action Members with the same notice on the cover e-mail and subject line attaching the Notice Packet. Plaintiffs’ counsel may include a postage-paid and self-addressed envelope with the mailed Notice Packet.

6. Within three business day of mailing the Notice Packets to the Putative Collective Action Members, counsel for Plaintiffs shall file a notice with the Court through the Court’s ECF system advising of the date of the mailing. That notice shall identify the date the Notice Period closes.

7. The Putative Collective Action Members shall have ninety (90) days to return their signed Consent to Join forms to Plaintiffs’ counsel for filing with the Court. That ninety (90) day


period shall begin to run three days after the mailing of the Notice Packet by Plaintiffs' counsel (the "Notice Period"). Notice shall be considered timely received if postmarked or faxed no later than the end of Notice Period and filed by Plaintiffs' counsel no later than seven (7) calendar days after the close of the Notice Period.

8. No sooner than thirty (30) calendar days before the expiration of the Notice Period, Plaintiffs' counsel may send a postcard reminder to the Putative Collective Action Members and is authorized to send an e-mail to the Putative Collective Action Members (containing the same language as the postcard reminder) reminding them of the deadline for the submission of the Consent to Join forms.

9. Should any Putative Collective Action Member provide Defendant or Defendant's counsel with a partially or completely executed Consent to Join form during the Notice Period, Defendant's counsel shall provide such document(s) to Plaintiffs' counsel no later than one (1) business day after Defendant or Defendant's counsel receives same.

SO ORDERED.

SIGNED: May 26, 2021.



JANE J. BOYLE
UNITED STATES DISTRICT JUDGE